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May 29, 2015

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Via ECF

Honorable Colleen McMahon
United States District Court
Southern District of New York
500 Pearl Street, Room 1640
New York, NY 10007

Re: *Consolidated Edison Company of New York, Inc. v. Lexington Insurance Company*,
Case No. 14-cv-06547-CM

Dear Judge McMahon:

We represent the Plaintiff, Consolidated Edison Company of New York, Inc. ("Con Edison"), in the above-referenced matter. We write to request a thirty day extension of the June 3, 2015 discovery completion deadline based on the continued unavailability for deposition of two witnesses for the Defendant, Lexington Insurance Company ("Lexington"). This is Con Edison's first request for an extension. Lexington does not oppose this request.

The initial discovery completion deadline was March 3, 2015. Con Edison noticed the depositions of Lexington's 30(b)(6) witness for February 13, 2015, and David Farrell, for February 18, 2015. On February 9, 2015, Lexington sought and received a sixty day extension for the completion of depositions because both witnesses were undergoing medical procedures. On March 11, 2015, Con Edison wrote to Lexington and requested an update on the status of Lexington's witnesses. Lexington responded on March 16, 2015, and told Con Edison that there were complications with regard to Mr. Farrell's recovery. Lexington stated that it would advise Con Edison in the future as to the witnesses' availability. On March 30, 2015, Con Edison again requested that Lexington provide an update as to the status of the witnesses' depositions. On April 2, 2015, Lexington told Con Edison that Mr. Farrell's recovery was slow, and that Lexington would advise Con Edison as to the availability of both witnesses.

On April 9, 2015 Lexington told Con Edison that, because of complications related to Mr. Farrell's recovery, Lexington would seek an additional extension of the discovery deadline. Con Edison consented, but requested that Lexington agree to schedule the 30(b)(6) deposition in the meantime. The following day, Lexington requested that, for the convenience of the witnesses, both depositions take place in Boston, during the same time period. On April 13, 2015, Lexington sought and received an additional thirty day extension, to June 3, 2015, based on issues related to Mr. Farrell's recovery.



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Lexington repeatedly advised Con Edison and the court that the witnesses would be unable to appear for deposition because of medical issues, and that Lexington would inform Con Edison as to their availability. Lexington, however, has not provided Con Edison with the witnesses' availability. In light of the impending June 3 discovery deadline, Con Edison contacted Lexington on Tuesday, May 26, 2015, and again inquired as to the status of its witnesses. During a subsequent call, Lexington advised Con Edison that both witnesses had "improved," but would not furnish a date for their depositions.

The witnesses' continued unavailability because of medical conditions necessitates this thirty day extension of the deposition completion deadline. Because the proposed deadline would fall on a holiday, July 3, 2015, we request that Your Honor order that the parties complete discovery by Monday, July 6, 2015.

We thank Your Honor for your consideration of this matter.

Respectfully yours,

David L. Elkind

cc: Lawrence Klein, Esq. (via ECF)